REMARKS

Claims 1, 9, 17, 26 and 30 are pending in the present application. Claims 1, 9, 17, 26 and 30 have been rejected. Claims 2-25 and 27-30 have been cancelled. Claim 1 has been amended for clarification. No new matter has been added. Accordingly, claims 1 and 26 are now pending in the present application.

In this Amendment, Applicant has cancelled claims 2-25 and 27-30 from further consideration in this application. Applicant is not conceding that the subject matter encompassed by claims 2-25 and 27-30 is not patentable. Claims 2-25 and 27-30 were cancelled in this Amendment solely to facilitate expeditious prosecution of the remaining claims. Applicant respectfully reserves the right to pursue additional claims, including the subject matter encompassed by claims 2-25 and 27-30, as presented prior to this Amendment in one or more continuing applications.

Claim Rejections - 35 USC § 101

a. Claim 17 was rejected under 35 U.S.C. § 101, because the claim is not directed to statutory subject matter.

Applicant respectfully asserts that claim 17 has been cancelled with this amendment. Consequently, the Examiner's rejection under 35 USC § 101 is no longer applicable.

Claim Rejections - 35 USC § 103

The standard for making an obviousness rejection is currently set forth in MPEP 706.02(j):

> To establish a *prima facie* case of obviousness, *three basic criteria must be met*. **First**, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or

> to combine reference teachings. **Second**, there must be a reasonable expectation of success. **Finally**, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The ***teaching or suggestion*** to make the claimed combination **and** the ***reasonable expectation of success*** **must** ***both be found in the prior art,*** **and not** ***based on applicant's disclosure.*** (emphasis and formatting added) MPEP § 2143, *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)
>
> The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a ***convincing line of reasoning*** as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). (emphasis added).

See also, KSR International Co. v. Teleflex Inc., No. 04-1350, 550 U.S. ___ (2007).

As noted above, the PTO has the burden of establishing a prima facie case of obviousness under 35 USC §103. The Patent Office must show that some reason to combine the elements with some rational underpinning that would lead an individual of ordinary skill in the art to combine the relevant teachings of the references. *KSR International Co. v. Teleflex Inc.*, No. 04-1350, 550 U.S. ___ (2007); *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). Therefore, a combination of relevant teachings alone is insufficient grounds to establish obviousness, absent some reason for one of ordinary skill in the art to do so. *Fine* at 1075. In this case, the Examiner has not pointed to any cogent, supportable reason that would lead an artisan of ordinary skill in the art to come up with the claimed invention.

Moreover, as is further discussed below, none of the references, alone or in combination, teaches the unique features called for in the claims. It is impermissible hindsight reasoning to pick a feature here and there from among the references to construct a hypothetical combination which obviates the claims.

> **It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps. [*citation omitted*]**

In re Gordon, 18 USPQ.2d 1885, 1888 (Fed. Cir. 1991).

A large number of devices may exist in the prior art where, if the prior art be disregarded as to its content, purpose, mode of operation and general context, the several elements claimed by the applicant, if taken individually, may be disclosed. However, the important thing to recognize is that the reason for combining these elements in any way to meet Applicants' claims only becomes obvious, if at all, when considered from hindsight in the light of the application disclosure. The Federal Circuit has stressed that the "decisionmaker must step backward in time and into the shoes worn by a person having ordinary skill in the art when the invention was unknown and just before it was made." *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1566 (Fed. Cir. 1987). To do otherwise would be to apply hindsight reconstruction, which has been strongly discouraged by the Federal Circuit. *Id.* at 1568.

> **To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.**

W.L. Gore & Assoc. v. Garlock, Inc., 721 F.2d 1540, 1553 (Fed. Cir. 1983).

Therefore, without some reason in the references to combine the cited prior art teachings, with some rational underpinnings for such a reason, the Examiner's conclusory statements in support of the alleged combination fail to establish a prima facie case for obviousness. *See, KSR International Co. v. Teleflex Inc.*, No. 04-1350, 550 U.S. ___ (2007) (obviousness determination requires looking at "whether there was an apparent reason to combine the known elements in the fashion claimed...", *citing In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness," KSR at 14).

a. Rejections of Claims 1, 9, 17, 26 and 30 under 35 U.S.C. §103(a) (994, 997, 840, APA References)

The Applicant respectfully asserts that claims 9, 17 and 30 are cancelled with this amendment. The Applicant respectfully traverses the rejection of independent claims 1 and 26 as being unpatentable over Yoshimura et al. (U.S. Patent 6,882,994) hereinafter *Yoshimura*, in view of Norcott et al. (U.S. Patent 6,999,977) hereinafter *Norcott*, in view of Shwartz (U.S. Patent 5,812,840) hereinafter *Shwartz* and further in view of Applicant Admitted Prior Art (APA), as emphasized by the recited claim elements set forth below:

> Independent Claim 1 recites a method for providing a timestamp for data in a database system, the database system operating in accordance with a database schema, the method comprising:
>
> providing a table in the database system, the table including a plurality of rows of data;
>
> providing a hidden timestamp column in the table of the database system, the hidden timestamp column including a timestamp value for each row of data in the table, the timestamp value indicating a last time a corresponding row of data in the table was previously modified, wherein the hidden timestamp column does not appear in the database schema by default and exposes the timestamp value for a given row of data in the table only to a query that calls the timestamp column by name;
>
> receiving a query from an application to obtain a timestamp value from the hidden timestamp column, the query calling the timestamp column by name; and
>
> in response to the query, the hidden timestamp column returning the timestamp value to the application for use by the application,
>
> wherein the application uses the returned timestamp value for controlling a locking scheme associated with recording data updates in the database system ***wherein the locking scheme retrieves the hidden timestamp column***. (Emphasis added.)

Yoshimura discloses techniques for answering a user's query to a database system. An embodiment provides a database querying method in which a first data

item is obtained from a Data Base Management System (DBMS) database table in response to a query request. A second data item is obtained by referencing a DBMS updated log file, having log data associated with the first data item, for example a timestamp. The first and second data items are then integrated and returned as an integration result to the query request. In one embodiment the first and second data items are integrated in a virtual table in accordance with a predetermined business rule.

The Examiner asserts that *Yoshimura* does not specifically disclose "...wherein the application uses the returned timestamp value from the hidden timestamp column for controlling a locking scheme associated with recording data updates in the database system..." as recited in independent claim 1. The Examiner then proposes to combine the *Yoshimura* reference with the Applicant's APA, specifically, ¶ [0003], to cure *Yoshimura"s* delineated defect. ¶[0003] is shown herein below:

> [0003] Applications commonly use this timestamp column for controlling optimistic locking schemes as follows: the application retrieves one or more rows from the table, **including the timestamp column**; the application logically or physically disconnects from the database system; the application makes updates to the rows that were retrieved from the database; and sometime later, the application reconnects to the database so that it can record the updates in the database.

Applicant asserts that independent Claim 1 has been amended for clarification to recite "...wherein the locking scheme retrieves ***the hidden timestamp column...***". Applicant emphasizes that the above-delineated portion of the Applicant's APA fails to contemplate the use of timestamp values from ***a hidden timestamp column*** for use in controlling locking schemes as recited in independent Claim 1. The employment of a non-hidden timestamp column, as contemplated by the Applicant's APA has several drawbacks. First, it requires additional CPU cost to maintain the timestamp column in each data row. Second, some tables may not be

updated very frequently, so it may not be worthwhile to require the additional space for the timestamp in every row. Third, if the timestamp column has to be explicitly added to the table by the user, shrink-wrapped client applications cannot assume that the timestamp column will necessarily be present, since the user may have chosen not to add the timestamp column. So, client applications will be reluctant to exploit this feature of the database. Fourth, having an explicit column for the timestamp is also inconvenient for cases where some applications need the extra column while others do not. For example, adding the extra timestamp column for one application might cause problems for other existing applications that didn't expect this extra column to be part of the table schema

In stark contrast to the Applicant's APA, independent claim 1 recites "...wherein the application uses the returned timestamp value for controlling a locking scheme associated with recording data updates in the database system ***wherein the locking scheme retrieves the hidden timestamp column***..." (Emphasis added.) The timestamp column is "hidden" in that it does not appear in the database schema by default. Application programs can specifically request that the timestamp column be returned by issuing a query which calls the timestamp column by name. This allows the value of the timestamp column to be returned when required but avoids exposing the column to queries that do not call it by name. Thus, the timestamp column does not show up in queries by applications that have no need for this column. This also allows the database administrator to add the timestamp column to an existing table without worrying that the new column will cause problems for existing application programs that do not expect the column to be present. These implementations are clearly missing from the Applicant's APA since the Applicant's APA fails to contemplate the use of timestamp values from ***a hidden timestamp column*** for use in controlling locking schemes.

Consequently, since the Applicant's APA fails to contemplate the use of timestamp values from ***a hidden timestamp column*** for use in controlling locking schemes as recited in independent Claim 1, the Examiner's proposed combination of

references does not disclose each element recited in independent Claim 1. Accordingly, the rejection of independent Claim 1 as being unpatentable over *Yoshimura*, in view of *Norcott*, further in view of *Shwartz* and further in view of Applicant's APA under 35 U.S.C. §103(a) should be withdrawn should be withdrawn.

Claim 26 depends from independent claim1 inherits all of it's limitations. Therefore, Claim 26 is also patentably distinct in light of *Yoshimura*, in view of *Norcott*, further in view of *Shwartz* and further in view of Applicant's APA and the rejections of claim 26 under 35 U.S.C. §103(a) ought to now be withdrawn.

CONCLUSION

Applicant now believes the present case to be in condition for allowance. Therefore, the Applicant respectfully requests a Notice of Allowance for this application from the Examiner.

It is believed that all of the pending Claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending Claims (or other Claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any Claim, except as specifically stated in this paper, and the amendment of any Claim does not necessarily signify concession of unpatentability of the Claim prior to its amendment.

Respectfully submitted,

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